



(4310-4J-P)

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Te-Moak Tribe of Western Shoshone— Ordinance Pursuant to United States Code, Legalizing and Regulating the Introduction, Possession, Use and Consumption of Alcoholic Beverages

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Amendment to the Te-Moak Tribe of Western Shoshone Indians Ordinance Pursuant to Section 1161, Title 18 United States Code, Legalizing and Regulating the Introduction, Possession, Use and Consumption of Alcoholic Beverages. This Ordinance regulates and controls the possession, sale and consumption of liquor within the jurisdiction of Te-Moak Western Shoshone Tribe's Colonies and Reservation, will increase the ability of the tribal government to control the community's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Amendment is effective 30 days after publication [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Donna Peterson, Acting Tribal Government Services Officer, Western Regional Office, Bureau of Indian Affairs, P.O. Box 10, Phoenix, Arizona 85001, Telephone: (602) 379-6786; Fax: (602) 379-4100; or, De Springer, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street, N.W., MS-4513-MIB, Washington, D.C. 20240; Telephone: (202) 513-7626.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the Te-Moak Western Shoshone Tribal Colonies/Lands and Reservation. On May 7, 1982, the Te-Moak Tribal Council duly adopted Ordinance 82-ORD-TM-01 which was readopted and amended by Ordinance 82-ORD-TM-03 on July 9, 1982. Ordinance 82-ORD-TM-03 and Ordinance 82-ORD-TM-01 were approved and published in the **Federal Register** on January 6, 1983. The Te-Moak Tribal Council adopted Amendment #(05-ORD-TM-05) to its Ordinance on October 5, 2005. This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary - Indian Affairs. I certify that the Te-Moak Tribe of Western Shoshone – Ordinance Pursuant to Section 1161, Title 18 United States Code, Legalizing and Regulating the Introduction, Possession, Use and Consumption of Alcoholic Beverages, the Amended Liquor Ordinance of the Te-Moak Tribe of Western Shoshone Indians, was duly adopted by the Te-Moak Tribal Council on October 5, 2005.

Dated: February 24, 2012

Jodi Gillette,
Deputy Assistant Secretary - Indian Affairs

Amendment #(05-ORD-TM-05) to the Te-Moak Liquor Ordinance reads as follows:

Ordinance pursuant to Section 1161, Title 18 United States Code, Legalizing and Regulating the Introduction, Possession, Use and Consumption of Alcoholic Beverages

Now, therefore, be enacted by the Te-Moak Tribal Council of the Te-Moak Tribe of Western Shoshone Indians of Nevada, that pursuant to the authority vested in it by Article VII, Section 1(f) of the Constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada, and Article II, Section 1 of the By-Laws of the Te-Moak Tribe of Western Shoshone Indians of Nevada, that the introduction, possession, use and consumption of alcoholic beverages shall be lawful within the exterior boundaries of those lands in the State of Nevada under the territorial jurisdiction of the Te-Moak Tribe of Western Shoshone Indians of Nevada. Provided that such introduction, possession, use and consumption shall be in accordance with the following:

SECTION 1:

- (a) It shall be unlawful to sell alcoholic beverages by the bottle, drink, can, or other package within the exterior boundaries of those lands of the State of Nevada under the territorial jurisdiction of the Te-Moak Tribe of Western Shoshone Indians of Nevada, without first obtaining a valid license issued by the Te-Moak Tribal Council.
- (b) Such tribal license will authorize the holder thereof to sell alcoholic beverages at retail in cans, bottles or other packages, or by the drink for consumption on the premises or within a defined area.

- (c) Such tribal license shall set forth the location and description of the building and premises or defined area where such sales may be made and for which said license is issued.
- (d) No such license shall be issued without the approval of the local governing body of the Colony or Reservation of the Te-Moak Tribe of Western Shoshone Indians of Nevada, upon the territory of which the proposed alcoholic beverage business is seeking to be licensed.
- (e) No such license shall be transferred without the prior consent of the Te-Moak Tribal Council.
- (f) Te-Moak Tribal Council shall establish the different categories of licenses and the license fee schedules annually by a duly passed resolution.
- (g) Any such license fee collected by the Te-Moak Tribal Council shall remain within the Te-Moak Tribe of Western Shoshone Indians of Nevada upon receipt of fees collected from the local governing body of the Colony or Reservation of the Te-Moak Tribe of Western Shoshone Indians of Nevada upon the territory of which the alcoholic beverage business has been licensed.

SECTION 2:

It shall be unlawful to use or consume any alcoholic beverages in a motor vehicle while such vehicle is being driven.

SECTION 3:

It shall be unlawful to possess any open bottle, can package or container or alcoholic beverage in the passenger compartment of a motor vehicle when such vehicle is being driven.

SECTION 4:

It shall be unlawful for any person actually under the influence of alcoholic beverages to possess, use or consume alcoholic beverages.

SECTION 5:

It shall be unlawful for any person to furnish any alcoholic beverage to any person under the age of twenty-one (21) years to leave or to deposit any alcoholic beverages with the intent that the alcoholic beverages shall be procured by any person under the age of twenty-one (21) years.

SECTION 6:

It shall be unlawful for any person under the age of twenty-one (21) years of age to introduce, possess, use or consume alcoholic beverages.

SECTION 7:

Any Indian who violates any of the provisions of this ordinance shall be deemed guilty of an offense and upon conviction thereof shall be punished by a fine of not more than \$300.00 or by imprisonment of not more than sixty (60) days or both such fine and imprisonment:

Provided, however, that any person under the age of eighteen (18) years may, in the discretion of the Judge, be treated as a juvenile and have the charge(s) disposed of pursuant to applicable juvenile law and procedures.

SECTION 8:

When a non-Indian violates any provision of this ordinance, he or she shall be referred to the State and/or Federal authorities for prosecution under applicable law.

SECTION 9:

Any licensee violating any provision of this ordinance may have said licensee's license suspended or revoked by the Te-Moak Tribal Council provided that the licensee is given a

written notice of the proposed suspension or revocation and afforded an opportunity of a hearing.

SECTION 10:

All ordinances, resolutions or acts that have previously been enacted by the Te-Moak Tribal Council, which are in conflict with any provision of this ordinance are hereby repealed.

CERTIFICATION

I, the undersigned, as Chairman of the Tribal Council of the Te-Moak Tribe of Western Shoshone Indians of Nevada do hereby certify that the Te-Moak Western Shoshone Council is composed of 10 members of whom 9 constituting a quorum were present at a duly held meeting on October 5, 2005, and that the foregoing ordinance was duly adopted at such meeting by an affirmative vote of 4 For, 3 Against, and 2 Abstention, pursuant to the authority contained under Article 4, Section 3(n) of the Constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada and that said ordinance has not been rescinded in any form.

/s/Hugh Stevens, Chairman,

Te-Moak Tribe of Western Shoshone

ATTEST:

/s/Vera Johnny, Acting Recording Secretary

Te-Moak Tribal Council